

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-23828-2021 (O&M)

Date of decision : July 29, 2022

Raghubir Singh

.....Petitioner

Versus

State of Punjab

....Respondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Akshay Kumar Goel, Advocate for the petitioner.

Ms. Sunint Kaur, AAG, Punjab.

Mr. C.M. Munjal, Advocate for the complainant.

LISA GILL, J.

Petitioner in this case seeks concession of anticipatory bail in FIR No. 310 dated 20.12.2011 registered under Sections 465, 467, 468, 471, 120B IPC at Police Station P.S. Division No. 5, Civil Line, District Ludhiana city.

Above said FIR was registered on the basis of complaint submitted by Sh. Jagdish Rai son of Sh. Kulbhushan Rai against the petitioner – Raghubir Singh, Jit Singh, Bahadur Singh and Jaspal Singh. It is alleged that the complainant purchased property for a sum of Rs. 51.70 lakhs in public auction conducted by Debt Recovery Tribunal on 17.12.2002. Possession of approximately 70% of the property was delivered to him and remaining portion was not delivered due to resistance of judgment debtors. It is further averred that accused Baldev Singh (not a petitioner) submitted an application before the Debt Recovery Appellate Tribunal, Delhi claiming that he has found certain documents after the demise of his father in 2010 i.e. one retirement-cum-reconstruction deed dated 31.03.1988 and sale deed dated 05.04.1998 bearing vasika No. 220, Bahi

No. 1, Jild No. 671 and he sought to place the said documents on record. Said documents are claimed to be forged documents with the assertion that when inquiries were made by the complainant, it was revealed that document at Vasika No. 220 was a totally different document i.e. another sale deed having been executed by one Sohan Singh son of Puran Singh in respect to a different property and certificate to that effect stood issued by the concerned Registrar alongwith copy of actual sale deed. It is stated that as the sale deed produced before the Appellate Tribunal was a forged document, presumption was raised that retirement-cum-reconstruction deed is also a forged one. Forgery is stated to have been committed by all the accused in connivance with each other. Accused Baldev Singh is stated to have appended his own signatures as buyer on the sale deed as well as on the retirement deed. Present petitioner alongwith co-accused Jit Singh, Bahadur Singh and Jaspal Singh are stated to have willingly appended their signatures on both the documents with knowledge and awareness of the forged nature of the document and created valuable security for the purpose of defeating rights of the auction purchaser i.e. complainant, who had already parted with a large sum of money. It is further averred that one Mohan Singh son of Karam Singh is reflected as a witness, alleged to be a Lambardar but his name is not legible and only a thumb impression is available. Furthermore, duplicate seal and endorsement of Sub Registrar, Ludhiana is stated to have been created by all the accused in connivance and in conspiracy with each other. Action thereon was, thus, sought.

Learned counsel for the petitioner submits that FIR has been registered on a complaint by Jagdish Rai through his Attorney Harish Rai Dhanda which is totally illegal and FIR, it is submitted, has been registered only due to influence of the brother of the complainant, who was earlier an MLA from Ludhiana during the years 2007-2012. It is contended that the Bank was aware of

the fact that co-accused Baldev Singh was having a share to the extent of 30% in the property but this fact was concealed and the whole property was put to sale in an illegal manner. Auction proceedings, it is submitted, were conducted illegally for the whole property. FIR No. 141 dated 13.10.2004 was registered at the instance of petitioner's father namely Jit Singh under Sections 420, 467, 468, 471, 120B IPC against the officials of the Bank with allegations that equitable mortgage had been created by the Bank officials on their own by getting his signatures on blank papers. FIR No. 3 dated 02.01.2006 under Sections 420, 120B IPC, it is submitted, was also registered against bank officials at the instance of the co-accused Baldev Singh. Reference is made to order dated 11.01.2008 passed by the Recovery Officer accepting objections filed by the co-accused Baldev Singh holding that 30% share of the property was owned by Baldev Singh being partner of M/s Rupal Industries as per partnership deed dated 31.01.1985 and that since Baldev Singh was not a certificate debtor, his share in property to the extent of 30% could not be sold and possession could not be handed over to auction purchaser. Aggrieved of order dated 11.01.2008, an appeal was filed by Jagdish Rai before the Debts Recovery Tribunal – II, Chandigarh which was allowed. Baldev Singh being aggrieved of order dated 13.07.2009 filed an appeal before the Debts Recovery Appellate Tribunal at Delhi, where the documents in question are stated to have been presented.

Learned counsel for the petitioner vehemently argues that the matter has been inquired into a number of times. Petitioner has joined investigation and fully co-operated, therefore, there is no question of custodial interrogation of the petitioner being required after passing of so many years. Reference is made to report dated nil attached as Annexure P18 to submit that no forgery was found to be committed by the accused, thus, cancellation was recommended. It is submitted that now suddenly the prosecution seeks to take the petitioner in

custody in an absolutely illegal manner only with a view to pressurise the petitioner and other accused. It is further submitted that petitioner is not involved in any other criminal case and he undertakes to further join investigation as and when required and fully co-operate with the authorities as has been done on earlier occasions. It is, thus, prayed that this petition be allowed.

As per affidavit dated 06.07.2021 filed on behalf of the respondent – State, preliminary inquiry was conducted by ADCT-I, Ludhiana, wherein it was found that commission of offences punishable under Sections 465, 467, 468, 471, 120B IPC are made out and, accordingly, FIR was registered. Reference is made to application dated 13.08.2014 moved by the petitioner before DIG, Ludhiana range, claiming himself to be innocent. Further on inquiry, it was found that co-accused Baldev Singh has also produced another sale deed of the said property bearing Vasika No.146 dated 05.04.1988 before DRAT, Delhi, which was also found to be a fake document as per record of the revenue Department. Actual sale deed against Vasika No. 146 has been executed in favour of one Gurdass Singh by one Dharam Pal. Said sale deed is also stated to have been signed by the present petitioner and co-accused Bahadur Singh, Jit Singh and Jaspal Singh as sellers. There is a reference to investigation by SIT constituted by DIG, Ludhiana Range on an application moved by the petitioner wherein complicity of the petitioner and co-accused was affirmed. Petitioner it is stated, filed yet another application, on which SIT was again constituted, which also found commission of offence(s) by the petitioner and others.

Petitioner still undeterred, yet again filed another application before Director Bureau of Investigation, Punjab, on which the Director found that multiple inquiries have been conducted in this case and there is no question of conducting any further inquiry. It is further stated that two of the co-accused Jit Singh and Bahadur Singh have passed away. Petitioner – Raghbhir Singh, Baldev

Singh and Jaspal Singh are still at large. In compliance of order dated 20.04.2022 passed by this Court, affidavit dated 06.07.2022 of Sh. Harish Behl, PPS. Assistant Commissioner of Police, Civil Lines, Ludhiana has been filed stating that original documents i.e. sale deed etc. in question are in possession of the petitioner and his co-accused and not in possession of the bank.

Learned counsel for the complainant vehemently argued that despite registration of FIR in the year 2011, prosecution has taken no steps whatsoever for concluding the investigation for reasons best known to it. Co-accused Baldev Singh had approached this Court for concession of anticipatory bail, which was declined way back on 07.03.2002 in CRM-M-6381-2012 but till date neither he has been taken in custody nor investigating agency has concluded the investigation. It is submitted that it is the petitioner and other co-accused who are infact misusing the process of law as is evident from the fact that multiple inquiries, which are not only unjustified but illegal have been conducted. Commission of the offence has been found to be committed but still no action is being taken by the investigating agency. In respect to the report dated Nil attached as Annexure P18 with this petition, recommending cancellation of FIR purportedly by PS Division No. 5, Ludhiana, it is stated that this document is a forged and fabricated document. Learned counsel for the petitioner submits that in a bid to favour the accused, investigating agency has very conveniently stated that police record of the complaint Branch for the year 2011-12 has been destroyed vide order dated 22.02.2017 passed by Committee constituted by the Commissioner of Police, Ludhiana as per the Punjab Police Rules. FIR No.146, dated 13.10.2004, it is submitted stands cancelled and CRM-M-29035 of 2008 has been filed seeking quashing of FIR No.3 dated 02.01.2006, in which proceedings have been stayed. Dismissal of this petition is prayed for.

Having heard learned counsel for the parties at length, in my considered opinion no ground for grant of anticipatory bail to the petitioner is made out in this case.

It is a matter of record that FIR in question was registered on 20.12.2011. Admittedly, investigating agency has conducted inquiries multiple times. Each time complicity of the accused in the commission of offence as alleged has been determined except as per report attached as Annexure P18, authenticity of which is under a definite cloud. Moreover, even if this report is presumed to be correct, number of inquiries have thereafter been conducted by the investigating agency where the petitioner has been found to be complicit. It is undeniable that sale deed qua vasika No. 220 as per the revenue record has been executed by one Sohan Singh son of Puran Singh in respect to different property. As per letter dated 23.12.2011 from the office of Sub Registrar (which is duly referred to in order dated 07.06.2021 passed by the learned Additional Sessions Judge, Ludhiana while dismissing petitioner's anticipatory bail), it is stated that copy of sale deed produced alongwith the application to the said Registrar seems doubtful and that the same was not bearing signatures of any officials of the office of Sub Registrar and neither bearing exact stamps used by the office of Sub Registrar. It has subsequently been found that sale deed bearing Vasika No. 146 dated 05.04.1998 was also executed by one Dharam Pal son of Kanshi Ram in favour of one Gurdass Singh son of Lachhman.

In the given facts and circumstances, merely because investigating agency has not taken any steps for conclusion of investigation since registration of FIR in 2011 till date or that co-accused Baldev Singh has not been arrested till date despite dismissal of his anticipatory bail by this High Court on 07.03.2002, cannot be a ground for grant of anticipatory bail to the petitioner. Learned counsel for the petitioner is unable to substantiate the allegations of any undue

influence etc. being exercised by the complainant through his brother. Further it is to be noted that subsequent inquiries, which have been conducted, were done after the complainant’s brother was no longer a sitting MLA or in any position of power or influence. It is a settled position of law that anticipatory bail is not to be granted at the asking, it is an extra ordinary concession to be granted in a particular case, where the petitioner is able to make out a case for the same. In the instant case, petitioner has miserably failed to indicate any ground for grant of concession of anticipatory bail.

Petition is, accordingly, dismissed.

July 29, 2022

rts

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No

(LISA GILL)
JUDGE